IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Bail Appl..No. 6239 of 2007()

[CRIME NO.231/2007 OF KADAKKAVOOR POLICE STATION]

: PETITIONERS

---

1. BIJU,S/O. LATE AMEEN,AGED 27 YEARS,
   METHARU VILAKOM, VAKKOM VILLAGE,
   THIRUVANANTHAPURAM.

2. ANWAR,S/O. ABDUL RAB,AGED 24 YEARS,
   VAKKOM VILLAGE,THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.P.K.MUHAMMED

RESPONDENTS: RESPONDENTS

---

1. SUB-INSPECTOR OF POLICE
   KADAKKAVUR POLICE STATION
   THIRUVANANTHAPURAM DISTRICT.

2. STATE OF KERALA
   REPRESENTED BY THE PUBLIC PROSECUTOR
   HIGH COURT OF KERALA, ERNAKULAM.

3. SUPERINTENDENT OF POLICE,
   THIRUVANANTHAPURAM,
   THIRUVANANTHAPURAM DISTRICT.

4. DIRECTOR GENERAL OF POLICE
   STATE OF KERALA
   THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6239 of 2007

Dated this the 16th day of October 2007

O R D E R

Second application for anticipatory bail. Earlier application filed by the petitioners was dismissed by this court as per order dated 25/9/2007. The petitioners have come before this court with this application for anticipatory bail.

2. What are the change of circumstances to justify the entertainment of a fresh application for anticipatory bail? A person, who does not challenge the earlier order rejecting the prayer for anticipatory bail and makes a subsequent request for the same relief, must certainly explain satisfactorily the change of circumstance which must persuade this court to invoke the powers under Section 482 Cr.P.C on such second application.

3. The learned counsel for the petitioners submits that another accused who was arrested by the police had been physically manhandled by the police. Even that circumstance came into existence prior to the order passed and not subsequently. If that be the apprehension of the petitioners, the

petitioners must surrender before the learned Magistrate and go to police custody, if necessary, only through the court so that the apprehension of physical violence while in custody can be avoided.

4. The learned counsel for the petitioner then submits that one of the allegedly stolen article - a mobile phone was subsequently found in the possession of one of the neighbours who had collected the same from the scene of the crime and handed it over to the police. I shall take that circumstance to be correct; but even then the fact remains that other stolen articles are still to be recovered.

5. Suffice it to say that I do not find any circumstances which can justify or warrant the invocation of powers under Section 438 Cr.P.C on the basis of this second application filed by the petitioners.

6. This bail application is accordingly dismissed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007